

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

COPY

-----X

OCCIDENTAL CHEMICAL
CORPORATION,

Civil Action No.
2:18-11273(MCA)(JAD)

Plaintiff,

v.

STATUS CONFERENCE

21ST CENTURY FOX AMERICA,
INC., et al.

Defendants.

-----X

B E F O R E:

THOMAS P. SCRIVO, ESQ. Special Discovery Master

O'Toole Scrivo Fernandez Weiner Van Lieu, LLC
14 Village Park Road
Cedar Grove, New Jersey 07009

TRANSCRIPT OF CONFERENCE as
reported by NANCY C. BENDISH, Certified Court
Reporter, RMR, CRR and Notary Public of the
States of New Jersey and New York, conducted
virtually via Zoom Videoconference on Wednesday,
January 20, 2021, commencing at 1:00 p.m.

Page 34

1 sort of six-month report this month. And so
2 that is subject to their weighing in on the
3 subject. But I think what we'll do now is we'll
4 extend it to the June 1 date and we'll continue
5 to push forward to try to meet that date as best
6 we can.

7 MR. TALBERT: Understood. I don't
8 know if this is the right time to raise this in
9 light of the fact that we've just talked about
10 the deadline, but as you saw in our letter, one
11 of our concerns or issues that is relative to
12 the deadline, as well as discovery in general,
13 is the third-party joinder issue, and I
14 understand that there is not a hard deadline
15 right now, but we were hoping to get at least --
16 we're at the point where we would need some
17 hopefully clear direction from the Court as to
18 whether those claims do not have to be
19 (indiscernible) such that we can hold off adding
20 additional parties or whether those really
21 should be filed.

22 And we're cognizant that the next
23 phase here, coming into depositions, is going to
24 be a time where we don't want to slow the case
25 down or create prejudice for any parties. So

Page 35

1 we're mindful of that and just wanted to raise
2 that in light of the aspirational goals of
3 moving discovery forward.

4 MR. SCRIVO: Yeah, I think
5 obviously, as I sit here, do I think that
6 discovery will end on June 1? No, I don't,
7 particularly with the depositions that have to
8 take place, which I think this is the topic,
9 meaning depositions, and really the only issue
10 that necessarily we are addressing relating to
11 depositions today is the massive gap between the
12 one hour that you somehow were unable to bridge
13 prior to today's call, unless you're going to
14 report on an agreement on that. But I am
15 cognizant of the fact that I do not believe that
16 we should allow depositions to proceed while the
17 third-party joinder issue is extended.

18 So I do believe, and it's not
19 going to be a decision today, but I want to at
20 least let you know that I think we are -- now
21 that we're getting into finalizing the
22 deposition protocol, and once we begin
23 depositions, I would envision that the
24 third-party joinder stay, for lack of a better
25 term, would be lifted such that depositions

Page 36

1 would not be duplicative.

2 I will say this, though, that this
3 is a topic that I will discuss with the District
4 Judge, given the impact on the judge's calendar
5 and caseload. So I think that this is something
6 obviously that I will have a conversation with
7 the District Judge and the Magistrate Judge
8 about, likely before our next monthly
9 conference. But at least I wanted to give you
10 my inclination that the depositions, I don't
11 think, necessarily should go forward without the
12 third-party joinder issue having been dealt
13 with.

14 MR. TALBERT: Thank you.

15 MR. KAIM: And, Mr. Scrivo, just
16 to point out Oxy's position there, I understand
17 that defendants have been saying they need -- at
18 first they wanted to put off the joinder
19 deadline, now they've raised the joinder
20 deadline, and I may be misstating this, but my
21 understanding was that they -- all the parties
22 could have joined third parties at any point in
23 time and just have not done so to date, pending
24 some future deadline being put in place.

25 Oxy's concern is we need to start

Page 37

1 depos. We feel like the time has come. We have
2 a targeted deposition strategy that we are ready
3 to begin. We've negotiated at length a
4 deposition protocol. Have agreed to every
5 component that the defendants have wanted in
6 that deposition protocol save the one issue
7 that's before you today, so that we could get it
8 put in place and begin depositions.

9 I would hope that we don't have a
10 delay in depositions pending a decision on when
11 the joinder deadline will be. I understand that
12 it is obviously important to have any third
13 parties that are (indiscernible) present for
14 depositions but, again, my understanding has
15 been the defendants have had the ability to join
16 third parties; they've just decided not to do so
17 and if they do so, as they've threatened that
18 they do, then that is on them, would be Oxy's
19 position.

20 MR. SCRIVO: I think you're right,
21 Anthony, in that this was always characterized
22 as a deadline, and if the deadline was imposed,
23 I guess we would ultimately see whether that
24 third-party joinder would occur or didn't occur,
25 but I agree with you, I don't believe that it

Page 38

1 was prohibited, the third-party practice would
2 have been prohibited.

3 And listen, if a deadline is
4 imposed, we'll see what occurs. But my job is
5 to continue to move the case forward, and we
6 understand we're getting into deposition phase.
7 I just wanted to let you know that I don't think
8 that that can occur until third parties are --
9 that everyone's in the case. Because we do not
10 want to duplicate -- my goal here is not to
11 duplicate work. You've seen that with the ESI
12 and the other rulings here. So, I don't want to
13 run that risk.

14 So, like I said, we'll address
15 this with the District Judge and the Magistrate
16 Judge and we'll probably have something to
17 report on at the next conference.

18 MR. KAIM: Certainly don't want to
19 duplicate work. OxyChem is eager to start
20 depositions. That is what I think is important,
21 in our view, at this point.

22 MR. TALBERT: We understand that
23 and I think that's precisely why we want to
24 raise the issue. We're aware that there are
25 still several months likely of document

Page 40

1 leash. It's going to be something that is --
2 because the defendants have had a lot of time to
3 consider, contemplate and, as Anthony correctly
4 points out, go ahead and file. They have not
5 been prohibited from filing the third-party
6 complaints.

7 I understand the practicalities of
8 why the defendants have waited; I get it. But
9 as we are now approaching the deposition phase,
10 there is no -- let me just say this. I'm not
11 telling you to wait. I'm telling you that there
12 will be a deadline imposed, and it won't be six
13 months out.

14 MR. TALBERT: Understood.

15 MR. KAIM: I'm sorry, Mr. Scrivo,
16 just with respect to the issue of documents.
17 Mr. Talbert raised putting off depositions
18 further to allow for the finalization of
19 document discovery. OxyChem, as Jack pointed
20 out, we're substantially complete with our
21 document production. And I don't see any reason
22 why defendants should delay their own
23 depositions based on the defendants not being
24 complete with their documents. We would like to
25 start deposing the defendants as soon as the

Page 39

1 production forthcoming, which we think is
2 important to complete before starting
3 depositions, and wanted to raise this now so
4 that we do not get into this when we're about to
5 start depositions and we haven't taken care of
6 third-party joinder.

7 As you know, we've been sensitive
8 to that because it would greatly increase the
9 number of parties in the case if we do that, and
10 so we have held out up until this point. My
11 understanding right now, just so we're clear, is
12 we will wait, pending further direction from the
13 Court at the next conference before really
14 filing the third-party joinder.

15 MR. SCRIVO: Well, there's no stay
16 in place from filings, so if the defendants
17 believe that third-party joinder should occur,
18 then they should do it. I've always said we're
19 just not going to impose a deadline. But a
20 deadline will be imposed. And so that's going
21 to come and, you know, I think that if you are
22 not ready, necessarily, to pull the trigger, to
23 engage in the third-party practice at this
24 moment, I could tell you right now, when the
25 deadline is imposed, it's not going to be a long

Page 41

1 Court allows us to and I, again, don't think
2 that they should put that off based on their own
3 document productions.

4 MR. SCRIVO: Well, I think I heard
5 Jeff say ESI would be done by March and that
6 there would be some privilege issues. So I
7 think that the deposition timeline, once we
8 agree on this major issue of one hour, will be
9 set up in the near future. But I agree with
10 you, Anthony, I think this is going to proceed
11 in -- you know, fairly soon.

12 There's always going to be
13 lingering document issues that occur in any
14 case, particularly a case of this magnitude and
15 size, so I think once we are -- and I understand
16 the defendants are now reviewing the substantial
17 ESI that has been provided by Oxy. I think once
18 we have an understanding that this is not going
19 to be a major, major fight and that there will
20 be, obviously, some areas of disagreements,
21 there will be meets and confer, and there might
22 be things that are brought to me. But if we are
23 to understand that the ESI is near substantial
24 completion, then we are on the precipice of
25 depositions and everyone should be guided